



SPONSOR: Rep. Stone & Sen. Blevins

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 487

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO AUTOMOBILE INSURANCE AND DRIVER EXCLUSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend §3909(a), Title 18 of the Delaware Code by inserting the following between "designated  
2 individuals" and the period (.) at the end of the first sentence in subsection (a):

3                       ", provided that such exclusion is provided for under the underwriting guidelines of the insurer or that the  
4 exclusion is at the request of the first named insured".

5           Section 2. Amend §3909(e), Title 18 of the Delaware Code by striking subsection (e) in its entirety and by  
6 substituting in lieu thereof the following:

7                       "Unless the excluded driver or drivers are not required to obtain insurance because the driver or drivers do  
8 not own an automobile, the excluded driver or drivers shall accept the offer of coverage provided for under subsection  
9 (d) of this section, obtain coverage in at least the minimum limits with another company, or surrender his or her motor  
10 vehicle operator's license to the Division of Motor Vehicles within 30 days after the offering of such coverage.  
11 Failure by the excluded party or parties to comply with subsection (d) of this section does not limit the effect of the  
12 exclusion under the underlying policy under subsections (a) and (b) of this section. This provision shall apply as long  
13 as the excluded driver could be considered a member of the household or possible occasional driver of the insured  
14 vehicle or vehicles from which he or she is being excluded."

SYNOPSIS

Under current Delaware law, an insurer may exclude a driver if the driver has violations that mandate exclusion under the insurer's underwriting guidelines. However, the law does not allow an insurer to exclude a driver from the policy at the request of the first named insured unless the excluded driver has such violations. (In other words, parents would have difficulty excluding their child.) The changes in subsection (a) fix this problem and clarify that, unless the exclusion is at the request of the first named insured, it must comply with the insurer's underwriting guidelines.

Also, if a driver is excluded, the law seems to require that the agent or insurer make sure that the excluded driver either has another separate policy from the same company, a policy from another company, or has turned in his or her driver license in 30 days to the DMV. If the excluded driver does not do this, the insurer must cancel the underlying policy. This procedure has several problems. First, the law does not contemplate that the excluded driver may not own a car and, thus, is not required to get insurance. Second, if the excluded driver fails to comply with the requirements of the law above, the insurer has to cancel the underlying policy from which the driver was excluded. This makes no sense. If parents exclude a teen-age son and he refuses to get insurance or turn in his license (or is not required to have insurance because he does not own a car), the parents' policy is cancelled. The bill corrects this anomaly by saying that the failure of the excluded driver to comply with getting a policy or turning in his or her license (unless he or she does not own a car) does not invalidate the exclusion and, thus, allows the underlying policy to remain in effect with the exclusion.